

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Darya Kabakova	Team: Team # 3	CCRB Case #: 200900168	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 12/25/2008 2:30 PM	Location of Incident: § 87(2)(b)	Precinct: 07	18 Mo. SOL 6/25/2010	EO SOL 6/25/2010	
Date/Time CV Reported Mon, 12/29/2008 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/06/2009 3:39 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mark Vazquez	02696	933447	007 PCT
2. POM Joseph Nebbia	04931	939106	007 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eddie Tsang	18149	940815	007 PCT
2. POM Rufus Roberts	30313	940646	007 PCT
3. POF Yuliya Dushina	30902	939783	007 PCT
4. POM Minqin Pan	03510	940908	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Mark Vazquez	Force: Sergeant Mark Vazquez used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Joseph Nebbia	Force: PO Joseph Nebbia used physical force against § 87(2)(b)	§ 87(2)(b)
C. An officer	Force: An officer struck § 87(2)(b) with a blunt instrument.	§ 87(2)(b)

Synopsis

Shortly before 2:30 pm on December 25, 2008, § 87(2)(b) called the police to his friend's apartment at § 87(2)(b) in Manhattan to request that his girlfriend, § 87(2)(b) be removed. When officers arrived, they placed § 87(2)(b) under arrest instead. Two officers, identified through investigation as Sergeant Mark Vazquez and PO Joseph Nebbia of the 7th Precinct, grabbed him, pushed him to the ground, and pulled his arms to handcuff him (Allegations A and B). An unidentified officer later hit § 87(2)(b) above the right eye with a blunt object, causing a laceration that required stitches (Allegation C). § 87(2)(b) was arrested by PO Eddie Tsang, also of the 7th Precinct.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) is a 5'8" tall, 150 lb Hispanic male with long black hair that he wears in a pony tail.

The arrest photograph of § 87(2)(b) (Encl. 6) shows that he has a large piece of white gauze over his right eyebrow.

On December 25, 2008, § 87(2)(b) informed officers following his arrest that he had been punched by an unidentified officer twice, causing a laceration above his right eye that required stitches. § 87(2)(g)

§ 87(2)(b) was interviewed by the CCRB on January 30, 2009 (Encl. 5A-D).

At about 2:30 pm, on December 25, 2008, § 87(2)(b) was with his friend, § 87(2)(b) and girlfriend, § 87(2)(b) at § 87(2)(b)'s apartment at § 87(2)(b) in Manhattan. § 87(2)(b)'s mother, § 87(2)(b) was also present in the apartment.

§ 87(2)(b) and § 87(2)(b) had been drinking since about 11:00 am. They had had a shot first and continued snacking and drinking several glasses of alcohol after noon. § 87(2)(b) was drinking a lot and began cursing. § 87(2)(b) had known her for four years and stated that she had previously been in a detoxification program and had had drinking problems. Although § 87(2)(b) was acting verbally disrespectful there was no physical confrontation between anyone. § 87(2)(b) asked § 87(2)(b) to tell § 87(2)(b) to leave, but § 87(2)(b) said that she would not leave unless the police came. § 87(2)(b) then asked § 87(2)(b) to call the police. § 87(2)(b) called the police and said that he was trying to get someone removed from the apartment because she was drinking and acting out of control.

Four uniformed officers responded. § 87(2)(b) described them as a 5'6" tall, slim Asian male, identified through investigation as PO Eddie Tsang, a Russian or Polish female who had an accent and was 5'6" tall with slim build, who was identified as PO Yuliya Dushina, a slim 5'6" tall black male, identified as PO Rufus Roberts, and a white male slightly taller than 5'6" and stocky, identified as PO Minquin Pan. PO Roberts was doing the most talking at first and then it was PO Dushina. When they arrived, they asked where § 87(2)(b) was and § 87(2)(b) directed them to her. The officers were starting to remove § 87(2)(b) to the hallway just outside the apartment. § 87(2)(b) then went inside the apartment because he thought that she was going to leave.

About three to seven minutes later, two more officers came. § 87(2)(b) identified one of them by name as Sergeant Mark Vazquez and described him as a 5'7"-8" tall Hispanic male with medium build. § 87(2)(b)

§ 87(2)(b) had read Sergeant Vazquez's name from his nameplate during the incident. He was with a 6' tall stocky white male, identified through investigation as PO Joseph Nebbia.

Sergeant Vazquez and PO Nebbia then came to the kitchen where § 87(2)(b) was cutting a cooked pork shoulder with a knife that was part of a multi-tool wrench. Sergeant Vazquez told § 87(2)(b) to put the knife down and made a big deal about it by saying "Oh, he has a knife." § 87(2)(b) said that it was not inappropriate for him to have a knife as he was at the time in the kitchen and was cutting meat. § 87(2)(b) then picked up a cigarette that he had in an ashtray next to him and Sergeant Vazquez told him to put the cigarette down. § 87(2)(b) did so. Sergeant Vazquez then told § 87(2)(b) to place his hands behind his back. § 87(2)(b) asked what was going on and why he was being arrested if he is the one that called. Sergeant Vazquez said that § 87(2)(b) had said that § 87(2)(b) had hit her. § 87(2)(b) argued that he would have not called the police had he hit her, especially since he is on probation. § 87(2)(b) asked if § 87(2)(b) had any marks on her and Sergeant Vazquez said, "If she told me you hit her, that's enough."

§ 87(2)(b) then came out to the living room and said, "Let me get my stuff." He walked over to a bed where his coat was lying and tried to get his coat and his property. An officer grabbed § 87(2)(b)'s right arm from behind and tried to twist it behind him. § 87(2)(b) was unsure who did this as they were behind him but believed that it was most likely Sergeant Vazquez or PO Nebbia. § 87(2)(b) said, "Let me get my stuff, let me get my jacket," but Sergeant Vazquez said, "You're not getting nothing." § 87(2)(b) was then handcuffed. He sustained scratches on his right wrist from the cuffs, which were still faintly visible at the time of his interview by the CCRB.

As the officers were doing this, § 87(2)(b) said, "Watch my TV, this is unnecessary, what are you doing?" He was concerned that his TV would get broken because the officers were being "rough" with § 87(2)(b). § 87(2)(b) could not further describe how the officer's were "rough" with him. PO Tsang, PO Roberts, PO Dushina, PO Pan and § 87(2)(b) were in the hallway outside the apartment when § 87(2)(b) was handcuffed.

§ 87(2)(b) was then led out of the apartment by Sergeant Vazquez and PO Nebbia. On the floor outside was set up something that § 87(2)(b) called a "stretcher," and described as a Velcro blanket. § 87(2)(b) was told to get down into the stretcher but was reluctant to do so and asked "Why?" An officer pushed § 87(2)(b)'s knee so that his leg would buckle and then slammed him down face first on the blanket. An officer placed a knee in § 87(2)(b)'s back and pulled his hair. § 87(2)(b) has hair just below shoulder length that he wears in a pony tail. § 87(2)(b) could not tell which officers were doing any of this because they were behind him and he could not turn around.

§ 87(2)(b) has a large laceration above his right eye and below his eyebrow. He stated that he had received seven stitches to the laceration. As he had not explained this previously, § 87(2)(b) was asked directly how he sustained his laceration. § 87(2)(b) then stated that he was hit with an object to the eye. He was hit in the hallway prior to being placed in the blanket, but could not specify what exactly was happening when he was hit. § 87(2)(b) stated that he does not clearly remember what was happening at that point. He was unsure what the object was and stated that it could have been handcuffs or a radio and was certain that it was a hard object and not a fist. § 87(2)(b) believed that Sergeant Vazquez had done this but was uncertain.

§ 87(2)(b) was strapped in the blanket and was carried outside. He was taken to either a van or a police car and placed inside. § 87(2)(b) was taken to the 77th Precinct, where he was processed for arrest and placed in a cell. After about an hour, § 87(2)(b) was taken to § 87(2)(b) by officers. § 87(2)(b) also sustained pain in his back and neck as a result of the incident.

§ 87(2)(b) did not receive medical treatment at Riker's Island because the doctors at the facility refused to remove the stitches because they did not place them. The stitches fell out themselves.

Results of Investigation

Attempts to Obtain Civilian Accounts

§ 87(2)(b)

Letters were mailed to § 87(2)(b) at § 87(2)(b) and another address obtained through the DMV database on February 2, 2009 and February 9, 2009. Searches of the COLE directory and LexisNexis yielded no further information. On February 26, 2009, both letters sent to § 87(2)(b) at the address obtained through the DMV database were returned by the USPS and it was indicated that she moved. No forwarding information was provided. On March 6, 2009, the domestic incident report was received at the CCRB. It listed a telephone number for § 87(2)(b). A voicemail message was left for her at that number on March 11, 2009. § 87(2)(b) called back on March 16, 2009 and left a voicemail message. Messages were left for § 87(2)(b) on March 19, 2009, April 27, 2009, and May 11, 2009. To date, § 87(2)(b) has not responded to these messages.

§ 87(2)(b) and § 87(2)(b)

§ 87(2)(b) did not provide any telephone number for either § 87(2)(b) or § 87(2)(b). Letters were mailed to the address he provided for them and where this incident occurred on February 2, 2009 and February 9, 2009. Searches of the DMV database, the COLE directory and LexisNexis confirmed the address for § 87(2)(b) and § 87(2)(b) but did not yield any telephone numbers. On February 26, 2009, the undersigned investigator went to § 87(2)(b) and rang the doorbell for § 87(2)(b) and § 87(2)(b) which listed their names, but there was no response. To date, neither § 87(2)(b) nor § 87(2)(b) have responded to these attempts to contact them.

§ 87(2)(b)

An individual who identified himself as § 87(2)(b) called 911 to request police presence at the time and date of this incident. The number that he called from appeared to be a pager. The number was paged on February 9, 2009, February 17, 2009, February 20, 2009, March 5, 2009 and March 11, 2009. To date, no one has responded to these pages.

Identification of Officers Interviewed

The IAB log for this incident identified Sergeant Vazquez, PO Nebbia, PO Tsang, PO Dushina, PO Roberts and PO Pan as having been present at the time of this incident. These six officers were therefore interviewed.

Officer Accounts

Sergeant Mark Vazquez

Sergeant Mark Vazquez is a 5'11" tall, 185 lb Hispanic male.

Sergeant Vazquez had no entries in his memo book regarding the incident (Encl. 7A-B).

Sergeant Vazquez was interviewed at the CCRB on March 25, 2009 (Encl. 8A-C). On December 25, 2008, he worked in uniform from 6:55 am until 3:52 pm. He was assigned as the patrol supervisor.

At about 2:30 pm on December 25, 2008, PO Tsang and PO Dushina called Sergeant Vazquez to come to the scene of a family dispute. Sergeant Vazquez was at the station house at the time and grabbed PO Joseph Nebbia to drive him to the scene. When they arrived, a female, identified through investigation as § 87(2)(b) was in the hallway outside of the apartment talking to PO Yuliya Dushina, PO Rufus Roberts and PO Minquin Pan. PO Eddie Tsang was with a male individual, identified through investigation as § 87(2)(b).

§ 87(2)(b) inside the apartment. Sergeant Vazquez spoke to § 87(2)(b) who had bruises on her face, while PO Nebbia joined PO Tsang inside and spoke with § 87(2)(b). § 87(2)(b) told Sergeant Vazquez that § 87(2)(b) had hit her but that she did not want to press charges. Even though she did not want to press charges, Sergeant Vazquez made the decision to arrest § 87(2)(b) since according to New York State law, if the victim has visible injuries they are mandated to arrest the perpetrator.

Sergeant Vazquez then entered the apartment while PO Dushina, PO Pan, and PO Roberts remained outside with § 87(2)(b). There was another male and female in the apartment, identified through investigation as § 87(2)(b) and § 87(2)(b). They did not seem to be involved in any way. Sergeant Vazquez immediately noticed that § 87(2)(b) was very intoxicated at the time because he smelled of alcohol, his eyes were bloodshot and because he was slurring his speech. § 87(2)(b) was standing in the living room and said that he had an order of protection against his wife. When Sergeant Vazquez asked him to produce it, § 87(2)(b) did not answer. Sergeant Vazquez later checked for an order of protection, but there was none. Sergeant Vazquez spoke to the defendant for less than a minute before he began to arrest him.

§ 87(2)(b) was smoking a cigarette and when Sergeant Vazquez asked him to put it down but § 87(2)(b) refused. PO Nebbia then told him that he was under arrest and Sergeant Vazquez told him to put his hands behind his back. § 87(2)(b) responded, "Fuck you," and reached with his hand behind his back. PO Nebbia then noticed a steak knife in § 87(2)(b)'s back pocket and yelled "Knife!" PO Nebbia, Sergeant Vazquez and PO Tsang immediately grabbed § 87(2)(b)'s hands to try to restrain him. Sergeant Vazquez was in front of § 87(2)(b) and grabbed one of his arms while PO Nebbia was to Sergeant Vazquez's side and PO Tsang was behind him. While they were trying to hold § 87(2)(b)'s hands, they lost balance and fell on the edge of the couch. § 87(2)(b) was never pushed to the floor. While they were on the floor either PO Tsang or PO Nebbia grabbed the knife out of § 87(2)(b)'s pocket and threw it away from them on the floor. § 87(2)(b) was holding both of his arms under his chest, forcing the officers to dig at his arms to get them from under his body. It took about two or three minutes to handcuff § 87(2)(b).

After they arrested § 87(2)(b) he was screaming and making a scene. He kept going limp and throwing himself to the floor while the officers tried to get him to the patrol car. Four officers had to carry him by each grabbing a limb and bringing him to the elevator. Other than handcuffs, the officers used no other restraints on § 87(2)(b) at the scene. When they were putting him in the RMP, Sergeant Vazquez noticed a small cut above § 87(2)(b)'s eye. Sergeant Vazquez did not recall seeing this cut when he first saw § 87(2)(b) and believed that he might have sustained it from throwing himself to the ground numerous times.

The officers then transported § 87(2)(b) to the precinct. At the precinct, Sergeant Vazquez notified Internal Affairs and the duty inspector about the cut on § 87(2)(b)'s head before he called ESU.

At the precinct, § 87(2)(b) was acting very irate and irrational. ESU was called and when they arrived, they had to tie him down and restrain him and brought him to a hospital, possibly § 87(2)(b) as an EDP.

No officer pulled § 87(2)(b) by the hair at any time and no force was used against § 87(2)(b) except in trying to grab his hands. No officer hit § 87(2)(b) with a radio or other object.

PO Joseph Nebbia

PO Joseph Nebbia is a 5'8" tall, 180 lb white male with black hair and green eyes.

PO Nebbia's memo book (Encl. 9A-C) indicated that at 3:05 pm, he accompanied Sergeant Vazquez to verify an arrest at § 87(2)(b) 10th Floor. They arrived there at 3:10 pm and the alleged perpetrator, who was intoxicated, reached for a knife that he had in his back right pocket.

PO Nebbia was interviewed at the CCRB on March 26, 2009 (Encl. 10A-C). On December 25, 2008 he worked, in uniform, from 3:00 pm until 11:35 pm. § 87(2)(g)

PO Nebbia did not know the names of any officers present other than Sergeant Vazquez because he usually works a different tour than they do. Upon arriving, PO Nebbia observed that § 87(2)(b) looked badly beaten and had significant bruises and bleeding on her face. § 87(2)(b) told PO Nebbia and Sergeant Vazquez that § 87(2)(b) had been drinking and had hit her.

When PO Nebbia and Sergeant Vazquez entered the apartment and asked § 87(2)(b) what happened, he responded incoherently. This contributed to PO Nebbia's impression that he was intoxicated.

After § 87(2)(b) was arrested, he was walked out of the apartment, but as soon as they got to the elevator he dropped to the floor with his back against the wall. He was screaming and making a big scene. He continued going limp at times but the officers were able to walk him to the car, holding him up as necessary. After they brought § 87(2)(b) to the stationhouse, EMS was called for the man because he was intoxicated.

PO Nebbia did not recall seeing § 87(2)(b) with any lacerations above his eye and did not know how he sustained it.

PO Eddie Tsang

PO Eddie Tsang is a 5'7" tall, 155 lb Asian male.

PO Tsang's memo book (Encl. 11A-C) indicates that at 2:29 pm, he responded to a dispute at § 87(2)(b) and that one male was placed under arrest.

PO Tsang prepared the criminal complaint report (Encl. 12A-B) and the arrest report (Encl. 13A-B) for § 87(2)(a) 160.50. § 87(2)(b) was charged with § 87(2)(b). On the arrest report, it is noted that § 87(2)(b) was intoxicated.

PO Eddie Tsang was interviewed at the CCRB on March 23, 2009 (Encl. 14A-B). On December 25, 2008, PO Eddie Tsang worked a 7:05 am until 3:40 pm and was assigned to sector B with PO Dushina.

At approximately 2:30 pm, PO Tsang and PO Dushina responded to a radio call for a domestic dispute. PO Pan and PO Roberts also responded to the call, and the four officers arrived at the scene at the same time. A male identified by PO Tsang as § 87(2)(b) opened the door. PO Tsang immediately noticed that § 87(2)(b) appeared intoxicated because he was slurring his words and had watery eyes. § 87(2)(b) had called 911 and asked for his girlfriend, § 87(2)(b) to be removed from the apartment. There were two other unidentified individuals inside the apartment who were not involved in the incident. § 87(2)(b) was the only person in the apartment who appeared to be intoxicated.

PO Tsang spoke to § 87(2)(b) and he noticed that her face was badly bruised. § 87(2)(b) told him that § 87(2)(b) got drunk and beat her. PO Tsang called for a sergeant to the scene to verify the arrest of § 87(2)(b). As soon as Sergeant Vazquez and PO Nebbia arrived, PO Tsang informed them about what had happened and immediately the three officers attempted to handcuff § 87(2)(b). PO Roberts, PO Pan and PO Dushina did not assist in handcuffing § 87(2)(b). § 87(2)(b) was swinging his arms and backed up to the couch in the living room. Sergeant Vazquez and PO Nebbia tackled § 87(2)(b) to the couch by pushing § 87(2)(b) who was already facing down, towards the couch. During this time, PO Tsang heard PO Nebbia yelling, "Knife!" and observed a 7 to 8-inch kitchen knife land on the floor. § 87(2)(b) continued to resist while the officers tried to handcuff him. When the officers picked up § 87(2)(b) from the couch, PO Tsang observed a cut on § 87(2)(b)'s forehead that had not been there before.

PO Tsang never saw § 87(2)(b) in the kitchen or on the ground. No officer ever placed a knee in § 87(2)(b)'s back, kicked his leg, grabbed him by his hair, or hit him in the face with any object.

§ 87(2)(b) was unable to get up and was carried downstairs to a patrol car by PO Tsang and another officer. No restraining device was used. Another patrol car transported § 87(2)(b) to the precinct. EMS was called for § 87(2)(b) but she refused treatment. Sergeant Vazquez requested EMS for § 87(2)(b) and he was subsequently taken to the hospital from the precinct. PO Tsang did not have further interaction with § 87(2)(b) at the precinct.

PO Yuliya Dushina

PO Yuliya Dushina is a 5'4" tall, 110 lb white female with brown hair and green eyes.

PO Dushina's memo book (Encl. 15A-B) indicates that she responded to a dispute at § 87(2)(b) at 2:39 pm on December 24, 2008 and that at 3:14 pm, one individual was under arrest at the location.

PO Dushina filled out the AIDED report for § 87(2)(b) (Encl. 16A-B), which indicated that § 87(2)(b) had a black eye and refused medical attention. She also prepared a domestic incident report and supporting deposition (Encl. 17A-B), in which § 87(2)(b) stated that § 87(2)(b) had punched her in the eye and threatened to kill her. Finally, PO Dushina prepared the Medical Treatment of Prisoner Report for § 87(2)(b) (Encl. 18). This report indicated that § 87(2)(b) suffers from asthma and received stitches over the right eye.

PO Dushina was interviewed at the CCRB on April 7, 2009 (Encl 19A-B). On December 25, 2008, she worked in uniform from 7:05 am until 5:10 pm with PO Tsang, § 87(2)(g)

There was a small hallway in the apartment leading to the other rooms, and PO Dushina stood here keeping two civilians who were not involved away from the room where other officers were speaking with the § 87(2)(b). PO Dushina could hear a fight taking place in the room but could not hear any words that were said. After a few minutes, the other officers came out of the room with § 87(2)(b) in handcuffs. PO Dushina had not seen him be arrested.

PO Dushina said that there might have been some bleeding on § 87(2)(b)'s face after the struggle but was unsure. There was no bleeding on his face when she first arrived. PO Dushina did not see any force being used against § 87(2)(b) after he was arrested.

After the male was taken out of the apartment, PO Dushina was waiting with an officer, she does not remember which one, for about twenty minutes for the woman to get her bag so they could bring her to the precinct. PO Dushina sat with the female at the stationhouse until her tour ended. Since she did not make the arrest she did not fill out any paperwork and was not involved in having the woman fill out any paperwork. She does not know why she was sitting with the woman at the stationhouse and she thinks that the female was speaking to a different officer during that time. PO Dushina offered to take the woman to the hospital and an ambulance came but she is not sure if they took her or not.

PO Minquin Pan

PO Minquin Pan is a 5'11" tall, 180 lb Asian male.

PO Pan had no entries in his memo book regarding this incident (Encl. 20A-C).

PO Pan was interviewed at the CCRB on April 2, 2009 (Encl. 21A-B). On December 25, 2008, PO Pan worked in uniform from 7:00 am to 3:00 pm with PO Rufus Roberts, § 87(2)(g)

While § 87(2)(b) was being arrested inside the apartment, PO Pan remained outside with § 87(2)(b) and could not see into the apartment. However, PO Pan did hear someone say, "Stop resisting."

When § 87(2)(b) was led out of the apartment, PO Pan observed a small scrape on his forehead that was not present when the officers first arrived on scene. PO Pan did not recall whether § 87(2)(b) needed to be carried.

PO Rufus Roberts

PO Rufus Roberts is a 5'11" tall, 156 lb black male.

PO Roberts has no entries in his memo book regarding the incident (Encl. 22A-C).

PO Roberts was interviewed at the CCRB on April 1, 2009 (Encl. 23A-B). On December 25, 2008, he worked in uniform from 7:05 am until 3:40 pm with PO Pan. § 87(2)(g)

PO Roberts never went into the apartment so he does not know what happened in the apartment and only saw that § 87(2)(b) was led out of the apartment in handcuffs. All he could hear was the words, "Stop resisting, stop resisting!" PO Roberts could not recall if the man was compliant or not when he came out of the apartment. At that time, § 87(2)(b) had a bruise near his left eyebrow.

Medical Records

§ 87(2)(b)

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (Encl. 24A-G). He was brought in to the emergency room at § 87(2)(b), complaining of a laceration to his right eyebrow. Although he was alert and oriented, he admitted to drinking and was agitated. The physician's notes indicate that § 87(2)(b) was hit on the head with a fist and reported no loss of consciousness. He also complained that his asthma was exacerbated and that he had blurry vision on the right eye. § 87(2)(b) received a medication for his asthma and sutures, though it is not indicated how many.

§ 87(2)(b)

The ambulance call report for the treatment of § 87(2)(b) (Encl. 25A-B) indicated that she had swelling to the face after an assault. § 87(2)(b) stated that her boyfriend punched her in the face and that they had been drinking. She refused medical attention, adding that she was "used to it by now." § 87(2)(b) was seen at the 7th Precinct station house at 4:58 pm on § 87(2)(b).

NYPD Records

SPRINT

The SPRINT (Encl. 26A-C) for this incident indicates that an individual who identified himself as § 87(2)(b) called 911 stating that he needed a female individual removed from his apartment. Sectors A and B responded, both arriving at 2:41 pm. The patrol supervisor arrived at 3:14 pm and at the same time it was indicated that one individual was under arrest.

Roll Call – 7th Precinct

The roll call for tour 2 on December 25, 2008 (Encl. 27A-F) shows that Sergeant Vazquez was assigned as the patrol supervisor. PO Roberts and PO Pan were assigned to sector A and PO Tsang and PO Dushina were assigned to sector B. PO Nebbia is not shown on this roll call.

The command log of the 7th Precinct (Encl. 28) indicates that § 87(2)(b) was brought in at 3:16 pm. His physical condition is indicated as intoxicated, and under “remarks” it is noted that he has a small laceration over his right eye and that EMS was called to the station house.

The property vouchers for § 87(2)(b) (Encl. 29A-B) list one knife vouchered as arrest evidence and separately, one multi-tool, a set of keys and a hospital card vouchered for safekeeping.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

§ 87(2)(b)

§ 87(2)(b) had filed one other complaint with the CCRB. § 87(2)(g)

In his five years with the NYPD, the CCRB has not substantiated any allegations against Sergeant Vazquez (Encl. 1A). § 87(2)(g), § 87(4-b)

The CCRB has not substantiated any allegations against PO Nebbia in his three years with the NYPD (Encl. 1B).

Conclusions and Recommendations

Identification of Subject Officers

Sergeant Vazquez and PO Nebbia were identified as the officers who handcuffed § 87(2)(b) through his own descriptions and because they admitted to doing so. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

Undisputed Facts

It is undisputed that § 87(2)(b) was placed in handcuffs by Sergeant Vazquez and PO Nebbia and that during the handcuffing, they all fell to a couch or bed. It is undisputed that § 87(2)(b) sustained a laceration requiring stitches above his right eye.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) denied hitting § 87(2)(b) stating that he asked Sergeant Vazquez why he could have called the police if he had hit her, especially given that he was on probation. § 87(2)(g)

Sergeant Vazquez and PO Nebbia described § 87(2)(b) pulling a kitchen knife out of his back pocket as they moved to arrest him, and such a knife was vouchered as arrest evidence. This is also noted in the arrest report and criminal complaint report for § 87(2)(b) § 87(2)(b) did not describe doing this. § 87(2)(g)

Lastly, § 87(2)(b) alleged that he was hit with a blunt instrument while in the hallway outside the apartment, which resulted in the cut that he sustained above his right eye. However, in his interview, he made no mention of this allegation until he was directly asked to explain how he sustained that injury, which he had not yet done in his statement. Furthermore, § 87(2)(b) told EMTs and IAB that the injury resulted from his having been punched with a fist. § 87(2)(g)

Allegation A: Sergeant Mark Vazquez used physical force against § 87(2)(b)

Allegation B: PO Joseph Nebbia used physical force against § 87(2)(b)

§ 87(2)(b) alleged that he was grabbed and pushed to the ground by Sergeant Vazquez and PO Nebbia and that they were “rough” with him in ways that he could not specify. § 87(2)(g)

§ 87(2)(b)

Allegation C: An officer struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) told the CCRB that an officer, he could not tell whom, struck him with a blunt object above his right eye, causing a laceration § 87(2)(g)

§ 87(2)(b)

Investigator:

Darya Kabakova

Date:

Supervisor:

Richard Osmer

Date:

Reviewed by:

Date:

Reviewed by:

Date: